

Regular Session, 2009

SENATE BILL NO. 187

BY SENATOR HEITMEIER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

MOTOR VEHICLES. Provides for medical exemptions to the window tint prohibition on motor vehicles. (8/15/09)

AN ACT

To amend and reenact R.S. 32:361.2, relative to motor vehicle equipment; to provide relative to medical exemptions from prohibitions on certain window tinting; to provide relative to the contents of an affidavit for such medical exemption; to require certain information; to provide for certain departmental and board actions; to provide for violations; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 32:361.2 is hereby amended and reenacted to read as follows:

§361.2. Medical exemption

A.(1) The provisions of R.S. 32:361.1 do not apply to a motor vehicle registered in this state where the registered owner, spouse or family member operating or authorized to operate the motor vehicle has an affidavit signed by an optometrist or physician, including but not limited to an ophthalmologist or dermatologist licensed to practice in this state stating that such person has a physical or medical condition involving the effects of the sun that makes it necessary to equip the motor vehicle with sun screening material which would be of a light transmission or luminous reflectance in violation of R.S. 32:361.1. A copy of the affidavit shall

1 be kept in the motor vehicle at all times.

2 (2) The affidavit, prepared by the office of state police, shall list the
3 World Health Organization International Classification of Disease ICD-9-CM
4 recognized conditions that would qualify an individual for a medical exemption
5 under this Section. Included on the affidavit shall be a section for the
6 optometrist or physician, including but not limited to an ophthalmologist or
7 dermatologist licensed to practice in this state, to describe a medical condition
8 that is not listed on the affidavit as a condition requiring a medical exemption
9 under this Section. The office of state police may seek the opinion of the
10 Louisiana Medical Advisory Board on whether to grant a medical exemption.
11 A copy of this affidavit shall be kept in the vehicle at all times.

12 (a) If the optometrist or physician, including but not limited to an
13 ophthalmologist or dermatologist licensed to practice in this state, finds
14 photophobia as the medical condition requiring the medical exemption provided
15 for in this Section, the optometrist or physician shall write in the appropriate
16 section why a correct pair of sunglasses will not provide the necessary
17 protection, and why the window tint will not affect the person's ability to drive
18 at night.

19 (b) An individual seeking the medical exemption shall sign a notarized
20 release authorizing the release to the department of all medical records dealing
21 with the exemption.

22 ~~(2)(3)~~(a) Any medical exemption granted shall be due to a diagnosed
23 condition made only by an optometrist or physician, including but not limited to an
24 ophthalmologist or dermatologist licensed to practice in this state, and such condition
25 shall be verifiable in the ~~American Medical Association Journal~~ World Health
26 Organization International Classification of Disease ICD-9-CM as a recognized
27 condition that would warrant an exemption pursuant to this Section.

28 (b) The secretary or his designated representative shall conduct a case-by-
29 case review of grants and denials and shall make such changes as he deems

1 necessary based on evidence presented to him by a person seeking an exemption.

2 (c) Any exemption granted under the provisions of this Section shall be
3 subject to review every three years unless deemed otherwise by the department.

4 (d) Persons convicted of violent crimes or drug offenses shall not be eligible
5 for a medical exemption. At the time of applying for the exemption, the applicant
6 shall provide written consent on a form approved by the Louisiana Bureau of
7 Criminal Identification and Information authorizing the bureau to release any
8 information contained in the applicant's criminal history record and identification
9 files to the office of state police for verification that the applicant has not been
10 convicted of a violent crime or drug offense.

11 (e) Any exemption issued shall be subject to administrative review and
12 possible cancellation as a result of a documented event involving a threat to police
13 officer safety.

14 B.(1) The affidavit shall include a description of the vehicle and shall be in
15 the possession of the person so afflicted, or the person's legal representative, at all
16 times while being transported in the motor vehicle or be kept within the described
17 vehicle.

18 (2) If a vehicle is traded or sold that is covered by an exemption, then the
19 person accepting the vehicle to be transferred shall be responsible for removing the
20 tint, unless the new owner has applied for and received an exemption.

21 C. Any medical exemption issued prior to January 1, 2005 shall expire one
22 year from the date of issuance.

23 D. Any exemption granted pursuant to this Section shall not apply to the area
24 below the top six inches of a motor vehicle windshield.

The original instrument was prepared by Christopher D. Adams. The following digest, which does not constitute a part of the legislative instrument, was prepared by Nancy Vicknair.

DIGEST

Heitmeier (SB 187)

Present law modifies the medical exemption to prohibition on window tints on motor vehicles.

Proposed law requires medical personnel to list recognized conditions in the World Health Organization International Classification of Disease ICD-9-CM, or describe a medical condition not listed when the medical exemption is being sought. Provides that office of state police may seek the opinion of the Louisiana Medical Advisory Board on whether to grant a medical exemption.

Proposed law requires the individual seeking the medical exemption to sign a notarized release authorizing the release of all medical records dealing with the medical exemption to the Department of Public Safety. This medical release shall be included as part of the window tint medical exemption affidavit prepared by the office of state police.

Effective August 15, 2009.

(Amends R.S. 32:361.2)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Transportation, Highways, and Public Works to the original bill.

1. Deletes the requirement that decals be displayed identifying the vehicle as having an exemption.
2. Changes a requirement that the Louisiana Medical Advisory Board be the final judge of whether a medical condition qualifies for the exemption to an authorization for state police to "seek the opinion of" the board as to whether the exemption should be granted.
3. Deletes a requirement that medical exemption holders re-apply with the State Police annually.
4. Specifies the American Medical Association International Classification of Disease ICD-9-CM as the source of the medical conditions which may be claimed.

Senate Floor Amendments to engrossed bill.

1. Makes technical changes.
2. Changes "American Medical Association" to "World Health Organization."